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FEDERAL COMMUNICATIONS COMMISSION
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February 6, 1997

DOCKET FILE COPY ORIGINAL

To: The Secretary to the Commission

Re: CC DOCKET 97-1

In the Matter of Application by Ameritech Michigan to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Michigan.

Please find enclosed an original and fifteen copies of the Comments of the Michigan Consumer Federation, together with an extra cover sheet that I ask that you to time stamp and return to the courier.

Thank you for your assistance.

Kathleen F. O'Reilly

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Counsel to the Consumer Federation of Michigan

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COMMENTS OF THE MICHIGAN CONSUMER FEDERATION IN OPPOSITION TO AMERITECH MICHIGAN'S APPLICATION

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COMMENTS OF THE MICHIGAN CONSUMER FEDERATION IN OPPOSITION TO AMERITECH MICHIGAN'S APPLICATION

Pursuant to the Notice of January 17, 1997 pertaining to this docket, the Michigan Consumer Federation (MCF), by its attorney, submits these Comments in Opposition to Ameritech Michigan's Application under Section 271 Telecommunications Act of 1996[1] to Provide In-Region, InterLATA Services in Michigan.

MICHIGAN CONSUMER FEDERATION'S INTEREST IN THIS PROCEEDING

The Michigan Consumer Federation is a coalition of thirty organizations representing over 400,000 Michigan residents. It was founded in 1991 to advocate for the interests of Michigan consumers in the shaping of public policy on issues before the Michigan Legislature, state executive branch agencies, the United States Congress, and federal regulatory bodies. MCF has participated as a party in Case No. U-11104 before the Michigan Public Service Commission (MPSC).[2] In sheer numbers and magnitude of vulnerability, residential ratepayers of Ameritech Michigan have the most to lose from

[1] The Telecommunications Act of 1996, P.L. 104-104, codified at Title 47 of the United States Code, Secs. 251 et seq. (also referred to herein as the federal act).

[2] In the matter of the Commission's own motion, to consider Ameritech Michigan's compliance with the competitive checklist in Section 271 of the Telecommunications Act of 1996.

the premature authorization of Ameritech Michigan to enter the long distance market.

SUMMARY OF MCF'S POSITION

MCF urges the Commission to reject Ameritech Michigan's submission on the grounds that it is premature.

- **Ameritech Michigan has not satisfied numerous requirements of the Telecommunications Act of 1996 that are inseparably linked to long distance entry.** Specifically it has not met the requirements of Sections 251, 254(k), 271(c)(1)(A), 271(c)(2)(B), 271(d)(3), 272 and 706 of the federal act.

- **The Importance of Sequencing**

1. Section 271 authorization of entry into long distance markets is intended as both an incentive and reward for local exchange companies to break up the local bottleneck pursuant to Sec. 251.

Michigan's experience underscores the critical importance of not bestowing the reward of long distance entry before promised performance has been delivered. In Michigan the rewards for breaking up the bottleneck were provided first. The promised performance has yet to be delivered. The extremely unfavorable results as discussed below, will be repeated unless the Commission withholds the reward of long distance entry until there is local competition and until Ameritech Michigan no longer retains tight control of the bottleneck.

2. The Sequencing of Sec. 251 and Sec. 271 also ensures that the interests of local customers are not sacrificed for the interests of long distance customers. Local service is a necessity; long distance service is not. If Sec. 271 authority is granted before the Sec. 251 requirement of a competitive local market is met, whatever gains long distance customers might achieve would emerge unfairly at the expense of local customers. In any event, even for long distance customers, the risks associated with Ameritech Michigan entry at this time outweigh the benefits.

3. It is premature to reward Ameritech Michigan with long distance entry under Sec 271 because the local bottleneck has not yet been broken pursuant to Sec. 251. If the local Michigan market were competitive, relevant indicators suggest that customers would be switching to other providers; historic monopoly rates would be going down; innovations, expanded service options and service quality would be increasing. Instead it is clear that the local bottleneck has not been broken.

a. CHOICE Less than one tenth of one percent of residential customers in Michigan are served by a competitor; largely those living in high rise apartments adjacent to the business offices served by competitors. According to its annual reports to shareholders, each year since passage of the MTA the number of new lines established by Ameritech Michigan has grown. With no indication that this trend will be reversed, the percentage of residential customers using a competitive provider may well decline, as the pie expands.

b. PRICES The rates for historically monopolistic services have risen "substantially" according to the Michigan Public Service Commission (MPSC). The basic rate used by most Michigan households has tripled since passage of the MTA. Ameritech's market view of its own region as reflected in various rates it has established, such as short-haul toll and CCLC, demonstrate that even it understands that it faces less competition in Michigan than in any other state in its region.

c. INNOVATION/NEW SERVICES Ameritech Michigan has not innovated; it has imitated the services and products available from other providers. Its new service offerings are largely for non-residential customers.

d. SERVICE QUALITY/NETWORK INVESTMENT Ameritech Michigan's service is declining at a serious rate, with complaints up 82%. The network is crumbling and being degraded, despite ample funds made available for its upgrade. The network is not modern enough to provide Internet access to the state's schools and libraries any time soon. Ameritech Michigan has slashed its Michigan work force by 22% since passage of the MTA, decreased its construction budget and now disinvests in the network, for a total net disinvestment of 1.1 billion since passage of the MTA.

- **It is premature to reward Ameritech Michigan with long distance entry because it is the only incentive to help assure ratepayers that the federal act's commitment to service quality is fulfilled.** Only the incentive for long distance entry will motivate Ameritech Michigan to comply with the service quality commitments in the federal act that are implicit in a Sec. 271 review. Section 254(k) and Sec. 706 address consumer rights to service quality. Ameritech Michigan is not providing quality service and is disinvesting in the network. In the absence of Commission-promulgated service quality rules to implement the federal act, reliance will continue to be on state commission rules. Recent Michigan service quality standards[3] are not in compliance with Sec. 706's commitment; they include no standards or measurements for data transmission and video, and substitute a vague and unenforceable measurement for noise that is related to power influence. The vague rules were substituted because of Ameritech Michigan's persistent failure to comply with the previous specific standard.

- **Important safeguards are not yet in place and would be rendered meaningless by Ameritech Michigan's entry into long distance at this time. The resources necessary for enforcement are not in place.** Various structural and non structural safeguards contained in the federal act, including critical protections related to separate affiliates and cross-subsidization, have not yet been put in place; various rules necessary for the Michigan Public Service Commission to ensure enforcement are either not yet in place or

[3] In the Matter of the Commission's Own Motion to Establish Quality Standards for Telecommunications Services Case No. U-11040 (adopted May 31, 1996)

have been challenged by Ameritech Michigan and await appellate determination.

Currently the MPSC and the Commission do not collect the meaningful data necessary to protect ratepayers against cross-subsidization and do not make meaningful data publicly available for review. Such authority and regulatory resources must be in place if effective competition is to emerge. Several cross-subsidization issues are of immediacy:

1. Allocation of Long Distance Customers' Share of the Costs For example, before entry into long distance takes effect, final pricing and costing rules must be put in place at the federal and state levels and sufficient enforcement resources committed to ensure, for example, that an appropriate portion of Ameritech Michigan's joint and common costs are shared by its long distance customers.

2. Preliminary Investigation of ACI/Ameritech Michigan Transactions Before entry into long distance is authorized, regulators must investigate questionable transactions between ACI and Ameritech Michigan to protect ratepayers against cross-subsidization.

- **Ameritech Michigan is Not in Compliance with the Competitive Checklist.**[5] It is premature to conclude that the competitive checklist requirements have been met. For example, Ameritech Michigan has not yet substantially performed according to the interconnection and resale agreements it submitted. Implementation of various recommendations that were included by arbitrators and adopted in Commission Orders in approving the agreements has not yet taken place.

Although dialing parity is as essential to launching meaningful local competition as it was to long distance competition, Ameritech Michigan has defied MPSC requirements

[5] The absence of MCF comments on each of the checklist items should not be construed as MCF acceptance of Ameritech Michigan's assertions of compliance.

and sued to stop its dialing parity requirements. That case is now pending in the Michigan Supreme Court and until resolved, and in the absence of dialing parity, any reasonable level of local competition is impossible. Emergency services requirements are likewise not being met.

- **Additional Public Interest, Convenience & Necessity Considerations**

1. **It is not in the public interest to grant long distance authority until Ameritech Michigan's monopoly revenue streams have been eliminated.** Local competition cannot occur if Ameritech Michigan continues to collect excess monopoly revenues for use in gaining competitive advantage. Before entry into long distance takes effect, the Commission must curtail Ameritech Michigan's monopoly revenue streams. That unfair competitive advantage currently exists as a result of excess access charges and from Ameritech Michigan's current price cap formula which includes an overly high rate of return and inadequate productivity factor.

2. **It is not in the public interest to grant long distance authority in the absence of administrative procedures.** Of practical concern to ratepayers is the absence of administrative procedures as a framework for handling the day-to-day problems already being faced by customers who have switched to a competitor. For example, as between Ameritech Michigan and competitive providers, how do customers identify which entity is responsible for problems being encountered? The lack of administrative procedures also impedes provider accountability and contributes to consumer confusion in trying to determine whether customers must seek redress with regulators or whether in a "competitive" environment, they now have recourse in court.

3. **It is not in the public interest to grant long distance authority until Ameritech**

Michigan is attending to the basic needs of its core network and customer base. Ameritech's spiralling diversification and emphasis on one-stop shopping strategy are apparently creating serious management distractions. The single-minded emphasis that Ameritech management has been placing on diversification and one-stop shopping may prove as imprudent and ultimately misguided as similar strategies pursued by electric companies, Sears, Mobile and countless other corporations. The resulting distraction is at the expense of attention to the core business and network that most customers must rely upon---and are paying for--long into the foreseeable future. Withholding long distance entry until Ameritech Michigan has been forced to attend to the needs of its core network and customer base is in the public interest.

4. It is not in the public interest to grant long distance authority until there has been at least a preliminary investigation of Ameritech's insurance procurement and risk management practices. Before entry into long distance is authorized, regulators must investigate the prudency of Ameritech's insurance procurement and risk management practices. Because of significant but typically overlooked circumstances, Ameritech's many high risk diversified activities, even if conducted within fully separate subsidiaries, put captive ratepayers at an unreasonable risk that must at least be minimized.

5. Important lessons from divestiture, including the need for regulators to assume their consumer education responsibilities, must be learned. Important regulatory lessons must be learned from the experience of divestiture as it affected residential telephone customers. One such lesson is an understanding of the important role regulators must play in providing consumer education, both to protect consumers during the transition to a competitive market, and to stimulate competition.

I. Introduction

In sheer numbers and magnitude of vulnerability, residential ratepayers have the greatest stake in Ameritech Michigan's application for long distance authority. Clearly the competitive checklist is an important consideration in the determination of whether interLATA authority should be granted. However, it is not the only Sec. 271 indicator of whether the required circumstances are in place for Ameritech Michigan's entry into long distance, and that section cannot be reviewed in isolation from the rest of the federal act. Overall commitments to service quality, as well as structural and nonstructural safeguards, must be in place and be enforced.

By way of analogy, the examination of every bone identifies whether there has been a fracture but is not determinative of the body's general health. Even as the orthopedic physician applies a specialization, there is still an implicit and overriding consideration of the body's vital signs. A body with no broken bones, but also no pulse or brain waves is not a healthy body. Similarly, even at the point in the future when there may be explicit compliance with each of Sec. 271's checklist items, regulators must implicitly ensure that the vital signs have also been examined. Among those "vital signs" are statutory safeguards such as the prohibition against cross-subsidization as well as the statutory commitment to quality service. These considerations are not confined to regulatory analysis under specific sections of the law. If the safeguards and service quality are not understood as related to every regulatory review under the Telecommunications Act, they are rendered meaningless. Long distance entry should be allowed only when they are addressed. To ignore them would be as fatuous as concluding that a cadaver with no broken bones is healthy.

II. The importance of sequencing.

There is a critical link between Sec. 251 and Sec. 271 of the federal act.[5]

A. Sequencing is necessary in order to ensure that entry into long distance is both an incentive and reward for local exchange companies to break up the local bottleneck as intended by Congress.

In 1991 Ameritech Michigan promised the Michigan legislature that if deregulation legislation were passed it would: open up the local market to competition; increase its investment in its infrastructure; provide innovation and new services; create 150,000 new jobs in Michigan within the decade; and make all of the state's schools and libraries Internet accessible. The legislature agreed and enacted the Michigan Telecommunications Act (MTA), one of the most sweeping deregulation laws in the nation. Additional amendments requested were approved in 1995. The legislature bestowed all of the rewards; the promised performance has yet to be delivered.

Ameritech Michigan has been lavish in its praise of the legislation and the Michigan Public Service Commission (MPSC), characterizing the law as a "monumental leap forward in the transition to a competitive environment in telecommunications"..., and its recent amendments as "out in front, in many respects, of the Federal Telecommunications Act of 1996."[6] According to Ameritech Michigan that law and the MPSC have "substantially revised the Michigan telecommunications laws to remove legal and regulatory barriers to entry into the local exchange business."[7] Yet more than five

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[5] Ameritech Michigan discussed and urged a parallel linkage treatment in Case No. U-10647, at p. 5., with respect to competitor Brooks Fiber's (formerly City Signal) interconnection proposal. Ameritech Michigan argued against "premature granting authority" until such linkage had been established. Unlike the federal act, the MTA statute under which Ameritech Michigan made the linkage argument was directed at opening up the local market and not creating some quid pro quo for potential local service provider competitors.

[6] Ameritech Submission at 2.

[7] Id. at 56-57.

years after passage, Ameritech Michigan still has not kept those promises. The local market in Michigan is not competitive; by any measure Ameritech Michigan retains tight control of the bottleneck.

Unless the Commission withholds the reward of long distance entry until there is local competition, Michigan's residential ratepayers will not be protected against a repeat of those extremely unfavorable results.

Superior power of the LECs Residential consumers welcome ever more vigorous and effective competition in the long distance market, and even more so, competition in the local market. But it is clear that entry into long distance is statutorily intended as both an incentive and reward to be granted to incumbent local exchange companies (LECs) only after it is made clear that they have first released their bottleneck hold on the local market; otherwise consumers are left with neither competitive market forces nor adequate government regulations to protect them against abusive monopoly behavior. The sequencing of entry into long distance only after there is a competitive local market reflects legislative recognition of the superior power that the entrenched monopoly local telephone companies enjoy by virtue of their ownership and operation of the public switched network---a network upon which consumers and competitors alike have had to rely.

Start-up logistics take at least some time. Even Ameritech Michigan did not start up its information services offerings immediately upon authorization. Principles of economics make clear that it will be demonstrably easier and faster for the LECs to make inroads into the long distance market than for the long distance players to make inroads into the local market. That is why the LECs must first demonstrate that the local market is competitive. Even assuming exemplary behavior and good faith motives by all players, it simply takes a certain amount of time beyond certification, before competitors can make local service available in any competitive sense.

Consider that even when the information services restriction in the Modified Final Judgment (MFJ) was lifted, Ameritech did not offer its first information services immediately, let alone become a viable competitor overnight. The Congressionally mandated sequencing of first the existence--not just the potential--of a competitive local market, and then LEC entry into long distance, is at the heart of the Commission Sec. 271 authorization process. Thus, in the absence of a showing that the local market in Michigan is now competitive---the local bottleneck broken---it is premature to bestow that long distance entry reward on Ameritech Michigan.

As discussed in detail below, it is unmistakably clear that the market for local service in Michigan is not yet competitive, especially for residential consumers.

B. Sequencing is necessary to ensure that the interests of local customers are not sacrificed for the interest of long distance customers.

The sequencing, or linkage between Sec. 251 and Sec. 271 considerations, has an additional important role. If long distance authority is granted before the bottleneck is broken under Sec. 251, whatever gains long distance consumers might achieve from Sec. 271 entry will unjustly be at the expense of local service customers. There is no generic "consumer" for purposes of regulatory review under Sections 251 and 271. Simplistically put, the ultimate beneficiaries of a sound implementation of Sec. 251 are local telephone consumers, just as the ultimate beneficiaries of sound Sec. 271 implementation are long distance consumers. Recognizing that many consumers assume both the role of local and long distance customer, nonetheless public policy principles demand that this vital distinction be drawn. The inherent linkage between a successful showing of compliance with Sec. 251 before Sec. 271 authority is granted, addresses that need.

Local residential telephone service is widely deemed a basic necessity; long distance service is not. The purpose of the societal goal of a 100% local subscription penetration level is to try and assure that households will have the practical ability to interact with their community, participate more fully in the local economy, and increase the likelihood of stability in a host of vital family, social and commercial relationships. Not only is local service a necessity as compared to long distance, the bulk of the monthly telephone bill for most households is for calls made within their state. Local consumers need elimination of the local bottleneck far more than long distance consumers need one more player in the long distance market.

Residential services are the most inelastic and least likely to experience competitive pressures now or in the near future. Nothing in the federal act even hints that the potential benefit to long distance customers of having an additional source of service should be at the expense of local telephone consumers. Yet that is precisely the effect if Ameritech Michigan's Application is granted at this time. If Sec. 251 requirements have not been met, local service customers will continue to pay excessive local rates in the absence of effective competition. For most households those excesses in local telephone rates will more than offset any decreased long distance rates.

The sequencing of linking Sec. 271 approval to the Sec. 251 removal of the local bottleneck accommodates the important distinction between the local and long distance customers. It acts as an inherent brake on premature long distance entry that would ultimately harm the local telephone consumer if the bottleneck remains. It must be emphasized, however, that Ameritech Michigan entry into long distance now would decidedly not be in the best interest of long distance customers.

Until the local bottleneck is broken, the risk of harm to long distance customers is far greater than any potential benefit. Ameritech Michigan's performance under the MTA more than belies any notion that its entry into long distance would have any sustaining positive affect on that market. In fact its premature entry would undoubtedly drive smaller long distance players out of the market, prevent new players from entering the market, and thus serve as a catalyst for entrenched cartel behavior in the long distance market.

III. Applying competitive indicators to a review of market conditions in Michigan confirms that the local market is not competitive. In a competitive market customers have meaningful choices of providers, lower prices, innovation and new service offerings as well as improved service quality. More than five years after passage of the MTA none of those indicators of true competition exist.

As described above, Ameritech Michigan looks favorably upon the Michigan Telecommunications Act (MTA)[8] which was to be a learning laboratory for promoting local competition. It has been more than five years since passage and implementation of the MTA. Accordingly, the experience with that law serves as an instructive proxy during the current Sec. 271 review. Having been provided with all of its incentives by the Michigan legislature's actions in 1991, did this local exchange company open up the local market and break the bottleneck as intended by the statute? Applying relevant competitive indicators to assess the current Michigan market, the answer is no.

A. Choice of Providers: In a competitive market customers have meaningful choices of providers; data submitted by Ameritech Michigan rebuts its contention that "local competition exists in Michigan". Less than one half of one percent of residential customers are served by competitive local providers.[9]

Members of Michigan households would be startled to hear Ameritech Michigan's assertion that "..local competition exists in Michigan today."[10] In fact, less than one tenth of one percent of Michigan customers are served by competing local telephone service providers. Even those residential customers are largely ratepayers who live in high rise buildings adjacent to office buildings served by the competitors. Competition

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[8] Michigan Telecommunications Act, 1991 PA 179, as amended, MCL 484.2101, et seq.; MSA 22.1469 (101) et seq.

[9] See, Ameritech Submission Response to Attachment A at p. 16 (November 12, 1996).

[10] Ameritech Michigan's Submission at p 2., In the matter of the Commission's own motion, to consider Ameritech Michigan's compliance with the competitive checklist in Section 271 of the Telecommunications Act of 1996.

has not begun in the cul de sacs let alone the country corners of Michigan. By any measure the current level of penetration is minuscule, and as a practical matter competition for residential customers is non-existent.[11] In a competitive market consumers have a meaningful choice of providers. It is important to note that the mere existence of an alternative to an incumbent provider does not establish a competitive market if, for example, the consumer is unaware of the alternative provider's existence[12] or if the competitors provide no meaningful alternative but merely assist in the creation of a cartel.

Provider choice as a marketplace indicator embraces at least some meaningful element of provider differentiation, based upon factors such as differing prices, contract terms and conditions, service quality, and service options. With less than one tenth of one percent of Michigan's residential customers served by an alternative local telephone service provider, competition is lacking. At least three additional indicators further confirm the existence of that competitive vacuum.

B. Prices: In a competitive market customers would see rates fall. Because providing local telephone service is a declining-cost industry, basic rates should decline even without competition. Yet in the Michigan market Ameritech Michigan's rates for local regulated services that are historically monopolistic have increased substantially, and other rate data further confirm the absence of a competitive market.

1. Basic Rates

a. Ameritech's basic local rates in Michigan have gone up substantially; the unlimited flat rate used by most households has tripled since passage of the MTA.

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[11] As part of its November 12, 1996 Submission, Ameritech Michigan included as Exhibit 6.21 to Question 6, an April 29, 1995 edition of "Dataquest" wherein on pp. 4-5, the market analysis describes the reasons competitive access providers (CAPs), for example, have not and are unlikely to enter the residential market for at least the short term.

[12] Ameritech Michigan, having filed a Sec. 271(c)(1)(A) Application, is not claiming that there has been a failure to request access.

In its report to the legislature,[13] the MPSC summarizes that

> From the information available to the Commission, several trends in the pricing of local exchange services have been observed. First, most of the pricing changes have been in the non-regulated sector of the local exchange market. Second, those services historically deemed monopolistic have experienced substantial price increases. For example, operator assisted call surcharges increased 76% to 170%. Third, non-recurring service order charges have decreased. In many cases, these charges relate to initiating a new service or feature which would have a functionally equivalent product available through a non-utility business. An example is utility-offered speed dialing and telephones equipped with automatic dialers. Finally, the addition of a message charge to the monopolistically provided residential basic local exchange service has increased the cost of that service to many Michigan Bell customers. Michigan Bell is the only company that has chosen to offer mandatory measured local service.

b. There has been a staggering impact from changes in basic pay phone rates.

Various other local rates that have been raised include public pay phone charges, which increased from 25 cents to 35 cents per call. There have been even more costly consequences of the simultaneous elimination of the 20-mile radius formerly applicable to public pay phone calls. As a result of that elimination, customers at pay phones within their community of interest must pay a minimum toll/long distance rate of $1.70 for many pay phone calls that previously cost 25 cents from a pay phone, and nothing from their home. This rate increase has a predictably devastating effect on family budgets as children who call home from school in adjacent communities, or parents calling home from work or nearby shops must carry enormous amounts of coins just to maintain routine and minimal phone contact when not at home but still within their community of interest. Other local rates have also increased, including custom-calling features and non-recurring charges.

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[13] "Final 1994 Report to the Governor and Legislature as Required by 1991 Public Act 179." at 11 and Table 3. (hereinafter referred to as the "MPSC Report to the Legislature.")

2. Enhanced Services Since passage of MTA, rate decreases for many enhanced services have been part of a special promotion or discount offering. Only with appropriate accounting standards vigorously enforced, could one distinguish whether these rate decreases are initial whiffs of competition or predatory pricing tactics.

One enhanced service with lowered rates is Touch Tone. The rate reduction rather than rate elimination is evidence that competition is lacking. In other jurisdictions the trend has been to eliminate Touch Tone charges completely. Acting as surrogates for competitive forces,[14] regulators in other jurisdictions have recognized that Touch Tone results in a more efficient use of the system.[15] The enhanced Touch Tone speed reduces the time each call requires on the system, thus maximizing the system's capacity; and Touch Tone is easier to install and maintain, etc., than rotary dial. In a truly competitive market, pricing incentives are used to stimulate an efficient use of a system. Yet through its "no charge" policy for rotary dial, even as it imposes a charge for Touch Tone, Ameritech

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[14] The principle of regulators serving as surrogates of a competitive market and holding monopolies responsible for exercising prudent market behavior, is a venerable mandate under cost-based regulation. That creature of utility case law largely served the public well when appropriately and consistently exercised. As divestiture approached, "surrogate" and "prudence" were creatively and successfully remolded by utility strategists into the pejorative called "micro management".

[15] Historically in Michigan and other states during the period decades ago when crank-style wall phones in homes and farms were the norm, the phone company response to the introduction of the rotary dial phone is instructive. The phone company monopoly, acting under prudency requirements, all but gave away the new rotary dial customer premises equipment, utilizing pricing and other methods to encourage its use because of the improved efficiency the rotary dial represented for the network.

Michigan sends pricing signals at odds with the manner in which a competitive market would respond to such technology.

As stated previously, local rates should be on a continuous decline even without competition since this is a declining cost industry. Thus, to the extent that certain local rate categories may decline, it should not be interpreted as necessarily indicative of "competition", since other forces such as declining costs may be at work.

3. Other Rates as Evidence that a Competitive Michigan Market Does Not Exist.

There is substantial evidence that Ameritech's market view of its own region illustrates its conclusion that Michigan's local service market is neither currently nor imminently competitive.

a. **Short-Haul Toll Charges**

Ameritech has set its short-haul toll rates at a higher level in Michigan than in any of the other states in its region (e.g. almost four times the level of that in neighboring Illinois). In effect, the respective rates in each state serve as an inverse reflection of how Ameritech views the competitive nature of that state. From the rates Ameritech has selected, it is clear that Ameritech concludes it faces even less competition in Michigan than in any other state of its region.

b. CCLC

Ameritech's successful proposal to the Commission revised its Carrier Common Line Charge ("CCLC")[16] such that Illinois' CCLC is being lowered because of competitive forces there, while Michigan's CCLC is

[16] filed at the FCC in April 1996, granted in June, 1996

increased to the highest level in the region. This is another indicator that Ameritech concludes that it is not facing a competitive Michigan market for local service.

4. Unsubstantiated claims that local basic rates are subsidized.

Faced with the reality that in a competitive market its rates would have to come down, Ameritech Michigan now defends its failure to lower basic monopoly rates on the grounds that those rates are already priced below cost and in fact are subsidized by other rates (presumably toll, enhanced services or other service classifications).

In recent years when LECs' books have been examined, as well as costing methodologies routinely exposed as inappropriate, repeated evidence demonstrates that such subsidization, to the extent it existed, is no longer in place. Yet the myth continues. For example, the Washington Utilities and Transportation Commission was recently presented with such an assertion by USWEST (USWC).[17]

> Contending that the residential rates are heavily subsidized, USWC proposed more than doubling residential rates over 4 years and charging rural ratepayers significantly more than urban ratepayer. In the final year of the USWC proposal, urban ratepayers would pay $21.85 per month for service and rural ratepayers $26.35. The current statewide average rate for the service is $10.50.
>
> USWC's own cost data--which supports the cost study relied on by the Commission-shows that the incremental cost of local service is less than $5 per month. Even if the entire incremental cost of the "loop"--the facilities needed for the connection between the central office and the consumer's telephone which also carry long distance and specialized services, such as voice mail, as well as local service-is allocated to the local ratepayer, the price covers the cost. There simply is no local service subsidy.

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[17] Washington Utilities and Transportation Commission v. U S West Communications, Inc. Docket No. UT-950200, Fifteenth Supplemental Order, (April 1996).

See also, "Current Issues in the Pricing of Voice Telephone Services", prepared for the American Association of Retired Persons by David Gabel (1995).

> USWC's own data show little cost difference between its rural and urban service territories.[18] The Commission directs the Company to eliminate extended area service surcharges and establish a statewide residential rate of $10.50 per month, the average rate in effect today. The $10.50 rate covers the cost of local residential service and provides a substantial contribution to shared and common costs. (at p. 9)

5. <u>Ameritech's Extremely Solid Financial Health Since Passage of the MTA</u>

Ameritech Michigan cannot be heard to justify its failure to lower rates on the grounds that its financial standing declined as a result of passage of the MTA and the local competition that it was intended to trigger. Ameritech Michigan's net profit in 1995 was $468,000,000 compared to $326,000,000 in 1992 as the MTA was just beginning to be implemented. Obviously the hope that the legislation's extensive deregulation and its authorization of "keep all" earnings would open the door for greater Ameritech profits, has come true. The "keep all earnings" of MTA deprives consumers of even a small share of the increased earnings that their historic monopoly rates have made possible. Most other states with alternative regulation have typically been <u>lowering</u> basic rates through price cap sharing mechanisms.

Ameritech Michigan's monthly charge for unlimited flat service exceeds $40/month, approximately <u>triple</u> what was charged for equivalent service at the time of MTA's passage. It announced on January 22 that it is seeking a further rate increase in various local services, including an increase for the non-EAS unlimited flat plan used by most households, as well as an increase in rates for the lowest priced, 50-call option plan.[19] These rates for unlimited flat service are

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[18] Studies, including those conducted by economist Richard Gabel, have explained that the exaggerated cost of providing rural service results, for example, from a failure to recognize the lower labor costs associated with providing rural service.

[19] Ameritech Michigan seeks increases in certain non-recurring charges, for example, line connection charges, etc.

among the very highest in the country.[20]

Shareholders certainly have no cause to complain.[21] According to Ameritech Michigan's most recent annual report to stockholders (March 1996), "1995 profits surged 119% on revenue growth of 6.8%"

> Since our stock began trading in 1983, Ameritech investors have earned a cumulative total return of 965%-more than double the total return of 457% for the S&P 500.
>
> Ameritech has raised its dividends to investors every year we've been in business---12 in a row. Our December 1995 dividend increase of 6% was the largest among our peers since 1991. (at p. 2)

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> 1995 was our first full year to benefit from regulatory reforms. In 1995, we became the first regional communications company with no regulatory limits on earnings in any jurisdictions, state or federal. Now we can keep all we earn... (at p. 4)

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> Since 1993[22], our revenue growth rates have doubled to almost 7% from a historical 3%. Revenues grew a record 11% in the fourth quarter of 1995. Ameritech has achieved nine consecutive quarters of double digit profit growth through the end of 1995, up substantially from our historical annual profit growth of 4% to 5%.
>
> We will continue the transformation of our corporate culture into one far better equipped for the challenges of the competitive marketplace. In 1995, we successfully recruited outstanding managers from strong marketing companies such as Proctor & Gamble and Kraft... (at p.5)

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[20] Based upon the commonly accepted indicators of revenues per access line/costs as a percentage of revenue per line. The ARMIS Analyst Financial Factbook 1995 Yearbook.

[21] <u>See Attachment A</u>, "Ameritech's Net Climbs 38% as Profit Before One-Time Items Increases 10%", Wall Street Journal, January 14, 1997. p. B7.

[22] The year that dramatic management changes at Ameritech resulted in engineering-focused management being replaced with sales and marketing-focused management. It is this shift in managment that is linked to Ameritech's declining service quality.